

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

M&T BANK,  
Plaintiff,  
v.  
PAULA WHITEROCK,  
Defendant.

Case No. [15-cv-03736-JCS](#)

**ORDER TO SHOW CAUSE WHY CASE  
SHOULD NOT BE REMANDED AND  
DEFENDANT SHOULD NOT PAY  
ATTORNEYS' FEES**

This is an unlawful detainer action originally filed in the California Superior Court for the County of Sonoma. Defendant Paula Whiterock previously removed to this Court asserting diversity jurisdiction. *See generally M&T Bank v. Whiterock*, No. 4:15-cv-00914-YGR (N.D. Cal.) (the “914 Case”). After Whiterock failed to appear at a case management conference, the Court issued an order to show cause why the case should not be remanded. Order to Show Cause (914 Case dkt. 13). Whiterock failed to respond to that order, failed to appear at the show cause hearing, and failed to respond to repeated notices from the Clerk instructing her to either consent to or decline magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c). The undersigned magistrate judge issued a report and recommendation that the case be remanded. Report & Recommendation (“R&R,” 914 Case dkt. 15). Because Whiterock had not consented, the case was reassigned a United States district judge, the Honorable Yvonne Gonzalez Rogers. The Court adopted the report and recommendation in full, and remanded the case to state court. Order (914 Case dkt. 18).

Whiterock has now once again removed to this Court asserting diversity jurisdiction under 28 U.S.C. § 1332. Her present notice of removal is identical to her first notice of removal except for the date, and does not address any of the reasons why the case was previously remanded. *See* 1st Notice of Removal (914 Case dkt. 1); 2d Notice of Removal (dkt. 1).

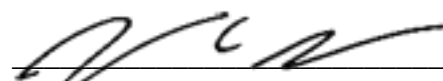
If a case is improperly removed, “[a]n order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal.” 28 U.S.C. § 1447(c). An award of attorneys’ fees may be appropriate where removal has been “sought for the purpose of prolonging litigation and imposing costs on the opposing party,” and “the standard for awarding fees should turn on the reasonableness of the removal.” *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 140–41 (2005).

Accordingly, Whiterock is hereby ORDERED to show cause why this action should not be remanded to the California Superior Court for the County of Sonoma, and why Whiterock should not be liable for M&T Bank’s reasonable attorneys’ fees. **Whiterock may file a response to this Order no later than Thursday, September 10, 2015, and shall appear for a show cause hearing at 9:30 AM on Friday, September 11, 2015 in Courtroom G, located on the 15th floor of the federal courthouse at 450 Golden Gate Avenue, San Francisco, California.**<sup>1</sup> If Whiterock fails to appear, the undersigned will recommend that the case be remanded and may recommend that Whiterock be sanctioned.

Whiterock, who is not represented by counsel, is encouraged to consult with the Federal Pro Bono Project’s Legal Help Center in either of the Oakland or San Francisco federal courthouses for assistance. The San Francisco Legal Help Center office is located in Room 2796 on the 15th floor at 450 Golden Gate Avenue, San Francisco, CA 94102. The Oakland office is located in Room 470-S on the 4th floor at 1301 Clay Street, Oakland, CA 94612. Appointments can be made by calling (415) 782-8982 or signing up in the appointment book located outside either office, and telephone appointments are available. Lawyers at the Legal Help Center can provide basic assistance to parties representing themselves but cannot provide legal representation.

**IT IS SO ORDERED.**

Dated: August 26, 2015

  
JOSEPH C. SPERO  
Chief Magistrate Judge

<sup>1</sup> Counsel for M&T Bank is encouraged to request a telephonic appearance in order to minimize attorneys’ fees.